

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

FREDERICK DWAYNE BOMAR,

Defendant and Appellant.

B220776

(Los Angeles County
Super. Ct. No. PA062879)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Burt Pines, Judge. Affirmed.

Kelly Cronin Martin, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Frederick Dwayne Bomar appeals the judgment entered following his conviction by jury on three counts of carjacking, one count of second degree robbery, and one count of attempted carjacking. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. Factual Background

A. Incident involving Daniel Ranada

On September 18, 2008, around 10:00 p.m., Daniel Ranada drove in his Ford Focus to his friend's house. After Ranada parked his car, appellant walked up to him and demanded Ranada's car keys. Appellant was covering his face with his shirt, and he had his hand under his shirt, leading Ranada to believe that appellant had a weapon. Ranada gave appellant the car keys, but Ranada asked if he could remove his guitars from the trunk first. Appellant allowed Ranada to remove his guitars before driving away in Ranada's car. Ranada called 911 immediately after this incident.

That same night, around 11:00 p.m., Morad Eddik heard a car accident about two blocks away from him. He turned and saw that a Ford Focus had crashed into a fire hydrant and saw someone running from the accident. He saw the person from about 10 feet away. The person, identified as appellant, told Eddik he had crashed his car and then appellant ran away. Eddik called the police. Appellant's fingerprints were found on Ranada's car.

B. Incident involving Mayra Diaz

On September 18, 2008, around 11:45 p.m., Mayra Diaz was in the parking lot of Walgreens when a man approached her, pointed what she believed was a gun at her, and demanded her car keys. Diaz gave him the keys, and he drove off in her car. At trial, Diaz testified that the man actually pointed his finger at her under his clothing, rather than a gun. Diaz identified appellant from a photographic lineup of six pictures. Diaz testified that she had received threats, warning her not to testify against appellant. The testimony was elicited in order to establish why Diaz was hesitant to state that appellant pointed a gun at her rather than his finger.

C. Incident involving Vanessa Rodriguez

On September 30, 2008, around 9:00 p.m., Vanessa Rodriguez was in the parking lot of a supermarket, obtaining water from a dispenser located near the store's exit. A man, later identified as appellant, approached Rodriguez and asked for her car keys. Appellant was covering the bottom half of his face with his shirt and held his hand under his shirt, with his finger pointing out. Rodriguez did not understand English, so she gave him the 15 cents that was in her hand. Appellant threw the coins on the ground and said "keys" in Spanish.

Rodriguez pushed appellant away, but he kept asking for her keys and tried to open the door to her car, which was parked near the water dispenser. After Rodriguez pushed him away, he removed his hand from under his shirt, and she saw there was nothing in his hand. Rodriguez told him to leave because her husband was coming, and she screamed. Appellant ran away after someone came out of the supermarket.

D. Incident involving Jo Anna Brown

On September 30, 2008, around 10:15 p.m., JoAnna Brown was waiting at an intersection to make a left turn in her car with her window cracked open. A man, later identified as appellant, approached her car and asked her for a ride. Brown declined, but appellant asked again, telling her he had been in an argument with his girlfriend and she had kicked him out. Brown again stated that she could not give him a ride, but he continued to ask. Brown was watching oncoming traffic, and when she turned back to look at him, he pointed what she thought was a gun at her face and said, "Okay, it's like this," and told her to get out of the car. Brown subsequently realized that she assumed the object appellant pointed at her face was a gun because of the way he held it. Brown got out of the car and asked if she could get her purse. Appellant told Brown to get her cell phone, but he drove off in her car before she could get it.

Brown called 911 and said that she had been carjacked at gunpoint. The police found appellant driving Brown's car. Police officers later took Brown to her car to identify it. The officers asked her to see if there were objects in the car that did not

belong to her. There was no firearm in the car, but there was a knife that did not belong to Brown. The officers asked Brown if the knife might have been the item appellant pointed at her, and she replied that it might have been, although she was not sure because she thought she had seen the barrel of a gun.

II. Procedural Background

On March 19, 2009, an information was filed charging appellant with five counts: (1) carjacking of Diaz with the allegation that he personally used a firearm (Pen. Code, §§ 215, subd. (a), 12022.53, subd. (b)); (2) second degree robbery of Diaz with a firearm allegation (Pen. Code, §§ 211, 12022.53, subd. (b)); (3) attempted carjacking of Rodriguez (Pen. Code, §§ 215, subd. (a), 664); (4) carjacking of Brown with a firearm allegation (Pen. Code, §§ 215, 12022.53, subd. (b)); (5) carjacking of Ranada with a firearm allegation (Pen. Code, §§ 215, 1203.06, subd. (a)(1), 12022.53, subd. (b)). Appellant pled not guilty to all five counts and denied all the special allegations. The case was called for a jury trial on October 15, 2009.

On October 23, 2009, the court struck the firearm allegation as to count five, carjacking of Ranada. After careful consideration, the court denied defense counsel's motion to strike the firearm allegations as to the other counts, although the court agreed to reconsider the motion later. The jury found appellant guilty of all five counts but found none of the firearm allegations to be true.

The trial court sentenced appellant as follows: on count one, the high term of nine years; on count two, the high term of five years, stayed pursuant to Penal Code section 654; on count three, the high term of four years and six months, to be served concurrently with the sentence on count one; on counts four and five, additional and consecutive terms of one year and eight months each, for an aggregate sentence of 12 years 4 months. The court gave the following reasons for selecting the high term: (1) appellant was on probation when he committed the crimes; (2) appellant engaged in violent conduct that indicated a serious danger to society; (3) appellant was convicted of crimes for which consecutive sentences could have been imposed but for which concurrent sentences were

imposed; (4) the sentence fulfilled the objectives of sentencing set forth in California Rules of Court, rule 4.410, which the court incorporated by reference. The court further explained that it imposed consecutive sentences on counts four and five because those crimes involved separate victims and separate acts or threats of violence, and they were committed at different times and places. The court gave appellant credit for a total of 476 days in custody and imposed various fines and fees, as well as restitution to the victims, in an amount to be determined later. Appellant filed a notice of appeal.

After review of the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On April 20, 2010, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received to date.

DISCUSSION

We have examined the entire record and are satisfied that no arguable issues exist, and that appellant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EPSTEIN, P.J.

We concur:

WILLHITE, J.

SUZUKAWA, J.